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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/008,670	11/07/2001	Sandra M. Tsontzidis	11227.00	7281

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DORSEY & WHITNEY, LLP  
INTELLECTUAL PROPERTY DEPARTMENT  
370 SEVENTEENTH STREET  
SUITE 4700  
DENVER, CO 80202-5647

EXAMINER

LEUNG, PHILIP H

ART UNIT	PAPER NUMBER
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3742

DATE MAILED: 03/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
10/008,670

Applicant(s)  
TSONTZIDIS et al

Examiner  
Philip H. Leung

Art Unit  
3742



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Feb 26, 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-91 is/are pending in the application.
- 4a) Of the above, claim(s) 26-88 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 and 89-91 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Nov 7, 2001 is/are a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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**DETAILED ACTION**

1. Applicant's election without traverse of species of Figures 1-3, **Claims 1-25 and 89-91** in Paper No. 5 is acknowledged.

2. **Claims 26-88** are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 5.

3. The drawings filed 11-7-01 are acceptable.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

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5. **Claims 1-25 and 88-91** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Zeng et al* (US 6,204,492) or *Lai et al* (US 5,698,127), in view of *Walters et al* (US 5,217,768) or *Stenkamp et al* (US 5,310,977).

*Zeng* shows an abuse-tolerant microwave food packaging material includes repeated sets of metallic foil or high optical density evaporated material segments (22) disposed on a substrate (34). Each set of metallic segments (22, 30, 40, 44, 62, 64, 66 etc.) is arranged to define a perimeter (such as 24, 32, 68) having a length equal to a predetermined ratio of the operating, or effective wavelength of a microwave oven. The repeated sets of segments act both as a shield to microwave energy and as focusing elements for microwave energy when used in conjunction with food products yet remaining electrically safe in the absence of the food products (see Figures 1-6 and col. 2, lines 25-63). Similarly, *Lai* shows a microwave food package material having similar claimed features as shown in Figures 2-8 and col. 4, line 15 - col. 6, line 65. *Zeng* or *Lai* does not show the use of an indentation pattern on the material to create a gap between the package material and the oven support. *Walters* or *Stenkamp* shows that it is well known in the art of microwave cooking to use food packages including various indentation patterns to form gaps between the package and the support to allow spacings therebetween for better food heating result (see *Walters*, Figures 5-10, col. 7, line 52 - col. 8, line 22 and col. 9, line 63 - col. 10, line 3 and *Stenkamp*, Figures 1-7 and col. 4, line 5 - col. 8, line 17). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify *Zeng* or *Lai* to form indentation patterns on the food package so that gaps are created between the package and the support for better microwave heating result, in view of the teaching of *Walters* or *Stenkamp*. The various indentation patterns would have been engineering variations of the patterns in these references following the teaching of *Walters* or *Stenkamp*.

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6. The prior art made of record below is considered pertinent to applicant's disclosure:

*Brandberg et al* (US 5,317,118) (see Figures 1-10 and col. 2, line 51 - col. 6, line 36) and  
Anderson et al (US 6,150,647) (see Figures 3-5) are further cited to show microwave food  
packages with various features as claimed.

7. Any inquiry concerning any communication from the examiner should be directed to  
Examiner Leung whose telephone number is (703) 308-1710. The examiner can normally be  
reached on Monday to Friday from 8:00 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,  
Teresa Walberg, can be reached on (703) 308-1327. The fax phone number for this Group is  
(703) 872-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding  
should be directed to the Group receptionist whose telephone number is (703) 308-0861.

  
**PHILIP H. LEUNG**  
**PRIMARY EXAMINER**  
**ART UNIT 3742**

P.Leung/pl  
3-7-03